



House of Representatives

General Assembly

File No. 590

January Session, 2015

House Bill No. 6991

House of Representatives, April 13, 2015

The Committee on Energy and Technology reported through REP. REED of the 102nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-40g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) As used in this section:

4 (1) "Energy improvements" means (A) participation in a district
5 heating and cooling system by qualifying commercial real property,
6 (B) participation in a microgrid, as defined in section 16-243y,
7 including any related infrastructure for such microgrid, by qualifying
8 commercial real property, provided such microgrid and any related
9 infrastructure incorporate clean energy, as defined in section 16-245n,
10 (C) any renovation or retrofitting of qualifying commercial real
11 property to reduce energy consumption, (D) installation of a
12 renewable energy system to service qualifying commercial real
13 property, or (E) installation of a solar thermal or geothermal system to

14 service qualifying commercial real property, provided such
15 renovation, retrofit or installation described in subparagraph (C), (D)
16 or (E) of this subdivision is permanently fixed to such qualifying
17 commercial real property;

18 (2) "District heating and cooling system" means a local system
19 consisting of a pipeline or network providing hot water, chilled water
20 or steam from one or more sources to multiple buildings;

21 (3) "Qualifying commercial real property" means any commercial or
22 industrial property, regardless of ownership, that meets the
23 qualifications established for the commercial sustainable energy
24 program;

25 (4) "Commercial or industrial property" means any real property
26 other than a residential dwelling containing less than five dwelling
27 units;

28 (5) "Benefited property owner" means an owner of qualifying
29 commercial real property who desires to install energy improvements
30 and provides free and willing consent to the benefit assessment against
31 the qualifying commercial real property;

32 (6) "Commercial sustainable energy program" means a program that
33 facilitates energy improvements and utilizes the benefit assessments
34 authorized by this section as security for the financing of the energy
35 improvements;

36 (7) "Municipality" means a municipality, as defined in section 7-369;

37 (8) "Benefit assessment" means the assessment authorized by this
38 section;

39 (9) "Participating municipality" means a municipality that has
40 entered into a written agreement, as approved by its legislative body,
41 with the bank pursuant to which the municipality has agreed to assess,
42 collect, remit and assign, benefit assessments to the bank in return for
43 energy improvements for benefited property owners within such

44 municipality and costs reasonably incurred in performing such duties;
45 [and]

46 (10) "Bank" means the Connecticut Green Bank; and

47 (11) "Third-party capital provider" means an entity, other than the
48 bank, that provides loans directly to benefited property owners for
49 energy improvements.

50 (b) (1) The bank shall establish a commercial sustainable energy
51 program in the state, and in furtherance thereof, is authorized to make
52 appropriations for and issue bonds, notes or other obligations for the
53 purpose of financing, (A) energy improvements; (B) related energy
54 audits; (C) renewable energy system feasibility studies; and (D)
55 verification reports of the installation and effectiveness of such
56 improvements. The bonds, notes or other obligations shall be issued in
57 accordance with legislation authorizing the bank to issue bonds, notes
58 or other obligations generally. Such bonds, notes or other obligations
59 may be secured as to both principal and interest by a pledge of
60 revenues to be derived from the commercial sustainable energy
61 program, including revenues from benefit assessments on qualifying
62 commercial real property, as authorized in this section.

63 (2) When the bank has made appropriations for energy
64 improvements for qualifying commercial real property or other costs
65 of the commercial sustainable energy program, including interest costs
66 and other costs related to the issuance of bonds, notes or other
67 obligations to finance the appropriation, the bank may require the
68 participating municipality in which the qualifying commercial real
69 property is located to levy a benefit assessment against the qualifying
70 commercial real property especially benefited thereby.

71 (3) The bank (A) shall develop program guidelines governing the
72 terms and conditions under which state and third-party financing may
73 be made available to the commercial sustainable energy program,
74 including, in consultation with representatives from the banking
75 industry, municipalities and property owners, developing the

76 parameters for consent by existing mortgage holders and may serve as
77 an aggregating entity for the purpose of securing state or private third-
78 party financing for energy improvements pursuant to this section, (B)
79 shall establish the position of commercial sustainable energy program
80 liaison within the bank, (C) [shall] may establish a loan loss reserve or
81 other credit enhancement program for qualifying commercial real
82 property, (D) may use the services of one or more private, public or
83 quasi-public third-party administrators to administer, provide support
84 or obtain financing for the commercial sustainable energy program,
85 [and] (E) shall adopt standards to ensure that the energy cost savings
86 of the energy improvements over the useful life of such improvements
87 exceed the costs of such improvements, and (F) may encourage third-
88 party capital providers to provide loans directly to benefited property
89 owners in lieu of or in addition to the bank providing such loans.

90 (c) Before establishing a commercial sustainable energy program
91 under this section, the bank shall provide notice to the electric
92 distribution company, as defined in section 16-1, that services the
93 participating municipality.

94 (d) If a benefited property owner requests financing from the bank
95 or a third-party capital provider for energy improvements under this
96 section, the bank shall:

97 (1) Require performance of an energy audit or renewable energy
98 system feasibility analysis on the qualifying commercial real property
99 that assesses the expected energy cost savings of the energy
100 improvements over the useful life of such improvements before
101 approving such financing;

102 (2) If financing is approved, either by the bank or the third-party
103 capital provider, require the participating municipality to levy a
104 benefit assessment on the qualifying commercial real property with the
105 property owner in a principal amount sufficient to pay the costs of the
106 energy improvements and any associated costs the bank or the third-
107 party capital provider determines will benefit the qualifying
108 commercial real property;

109 (3) Impose requirements and criteria to ensure that the proposed
110 energy improvements are consistent with the purpose of the
111 commercial sustainable energy program;

112 (4) Impose requirements and conditions on the financing to ensure
113 timely repayment, including, but not limited to, procedures for placing
114 a lien on a property as security for the repayment of the benefit
115 assessment; and

116 (5) Require that the property owner provide written notice, not less
117 than thirty days prior to the recording of any lien securing a benefit
118 assessment for energy improvements for such property, to any existing
119 mortgage holder of such property, of the property owner's intent to
120 finance such energy improvements pursuant to this section.

121 (e) (1) The bank or the third-party capital provider may enter into a
122 financing agreement with the property owner of qualifying
123 commercial real property. After such agreement is entered into, and
124 upon notice from the bank, the participating municipality shall (A)
125 place a caveat on the land records indicating that a benefit assessment
126 and a lien [is] are anticipated upon completion of energy
127 improvements for such property, or (B) at the direction of the bank,
128 levy the benefit assessment and file a lien on the land records based on
129 the estimated costs of the energy improvements prior to the
130 completion or upon the completion of [said] such improvements.

131 (2) The bank or the third-party capital provider shall disclose to the
132 property owner the costs and risks associated with participating in the
133 commercial sustainable energy program established by this section,
134 including risks related to the failure of the property owner to pay the
135 benefit assessment. The bank or the third-party capital provider shall
136 disclose to the property owner the effective interest rate of the benefit
137 assessment, including fees charged by the bank or the third-party
138 capital provider to administer the program, and the risks associated
139 with variable interest rate financing. The bank or the third-party
140 capital provider shall notify the property owner that such owner may
141 rescind any financing agreement entered into pursuant to this section

142 not later than three business days after such agreement.

143 (f) The bank or the third-party capital provider shall set a fixed or
144 variable rate of interest for the repayment of the benefit assessment
145 amount at the time the benefit assessment is made. Such interest rate,
146 as may be supplemented with state or federal funding as may become
147 available, shall be sufficient to pay the bank's financing and
148 administrative costs of the commercial sustainable energy program,
149 including delinquencies.

150 (g) Benefit assessments levied pursuant to this section and the
151 interest, fees and any penalties thereon shall constitute a lien against
152 the qualifying commercial real property on which they are made until
153 they are paid. Such lien, or if the financing agreement provides that the
154 benefit assessments shall be paid in installments then each installment
155 payment, shall be collected in the same manner as the property taxes
156 of the participating municipality on real property, including, in the
157 event of default or delinquency, with respect to any penalties, fees and
158 remedies. Each such lien may be recorded and released in the manner
159 provided for property tax liens and, subject to the consent of existing
160 mortgage holders, shall take precedence over all other liens or
161 encumbrances except a lien for taxes of the municipality on real
162 property, which lien for taxes shall have priority over such benefit
163 assessment lien. To the extent benefit assessments are paid in
164 installments and any such installment is not paid when due, the
165 benefit assessment lien may be foreclosed to the extent of any unpaid
166 installment payments and any penalties, interest and fees related
167 thereto. In the event such benefit assessment lien is foreclosed, such
168 benefit assessment lien shall survive the judgment of foreclosure to the
169 extent of any unpaid installment payments of the benefit assessment
170 secured by such benefit assessment lien that were not the subject of
171 such judgment.

172 (h) Any participating municipality may assign to the bank any and
173 all liens filed by the tax collector, as provided in the written agreement
174 between the participating municipality and the bank. The bank may

175 sell or assign, for consideration, any and all liens received from the
176 participating municipality. The consideration received by the bank
177 shall be negotiated between the bank and the assignee. The assignee or
178 assignees of such liens shall have and possess the same powers and
179 rights at law or in equity as the bank and the participating
180 municipality and its tax collector would have had if the lien had not
181 been assigned with regard to the precedence and priority of such lien,
182 the accrual of interest and the fees and expenses of collection. The
183 assignee shall have the same rights to enforce such liens as any private
184 party holding a lien on real property, including, but not limited to,
185 foreclosure and a suit on the debt. Costs and reasonable attorneys' fees
186 incurred by the assignee as a result of any foreclosure action or other
187 legal proceeding brought pursuant to this section and directly related
188 to the proceeding shall be taxed in any such proceeding against each
189 person having title to any property subject to the proceedings. Such
190 costs and fees may be collected by the assignee at any time after
191 demand for payment has been made by the assignee.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2015	16a-40g
-----------	-----------------	---------

ET *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which authorizes third-party capital providers to participate in the commercial property assessed clean energy program, has no fiscal impact as the program is run by the quasi-public Connecticut Green Bank which does not currently receive state funding.

The Out Years

State Impact: None

Municipal Impact: None

Sources: Connecticut Green Bank

OLR Bill Analysis**HB 6991*****AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM.*****SUMMARY:**

This bill allows third-party capital providers to participate in the Connecticut Green Bank's commercial sustainable energy program, known as the Commercial Property Assessed Clean Energy (C-PACE) program. Under current law, the Green Bank provides financing through the C-PACE program for energy efficiency or renewable energy improvements on certain commercial properties in participating municipalities. The property owner repays the cost of the improvements through an assessment on the property, backed by a lien.

The bill allows (1) third-party capital providers to provide loans directly to property owners participating in the C-PACE program and (2) the Green Bank to encourage such loans in addition to, or instead of, financing provided by the Green Bank. It also makes various conforming changes to bring the third-party capital providers under the C-PACE law's requirements for financing agreements, procedure, notices and disclosures, and rates. It does not extend to the third-party providers a provision that requires the Green Bank to set interest rates at a level sufficient to pay the bank's financing and administrative costs for the program, including delinquencies.

Lastly, the bill allows, instead of requires, the Green Bank to establish a loan loss reserve or other credit enhancement program for properties participating in the C-PACE program.

EFFECTIVE DATE: October 1, 2015

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 23 Nay 0 (03/24/2015)